
Returning to Work Safely – Key Points



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On 20 September 2021, employees were permitted to return to their workplaces again in certain circumstances, following eighteen months of working from home. Employers welcoming employees back into their workplaces must follow the Work Safely Protocol (“the Protocol”), which was updated on 16 September 2021.

The Protocol outlines updated guidance on managing the spread of COVID-19 in the workplace and the minimum requirements expected of employers before allowing employees to return safely to the workplace. While there have been updates to the Protocol, a number of these requirements were already in place and measures such as physical distancing, mask wearing and appropriate ventilation are still required.

Guidance Note on Work Safely Protocol (“the Guidance Note”):

The Labour Employer Economic Forum (“LEEF”) established a consultative stakeholder group of Government, Trade Union and Employer representatives to oversee the implementation of the Work Safely Protocol. This group prepared the Guidance Note to assist employers in planning their phased return to the workplace. The Guidance note outlines the timelines for the different phases of returning to work.

From 20 September to 21 October 2021:

Return to the workplace is permitted from 20 September for specific business requirements and on a phased and staggered basis. It should also be done in consultation with the employees to carefully consider how this return can take place in a safe fashion. Any proposed return to the workplace should be undertaken on a subjective basis, depending on how appropriate it is in the circumstances of that particular workplace. Employers must take into account attendance levels, arrangements for staggered attendance and ensure that attendance is only on the basis of specific business requirements.

Requirements for self-isolation or restricted movements for those with symptoms, those who have tested positive and those who are close contacts (unless the person is fully vaccinated with no symptoms) remain.

The HSA have produced an updated return to work checklist which employers should utilise before allowing employees return to the workplace, as well as one in relation to Rapid Antigen Diagnostic Tests (RADTs). These checklists are available [here](#).

The Protocol states that each workplace will appoint at least one Lead Worker Representative (“LWR”), whose role is to assist the employer in implementing and monitoring adherence to the new measures. If there are concerns in the workplace pertaining to COVID-19, workers should raise these with their LWR. If these concerns are not addressed by the LWR, then they may be raised with the Workplace Contact Unit of the

Health and Safety Authority who will investigate these concerns.

The Government are encouraging employers to develop blended and remote working arrangements in the long term, taking their individual businesses operational requirements into consideration.

After 22 October 2021:

Further restrictions are to be removed on the 22 October 2021 including the requirement to work from home where possible. As of this date employees will be allowed to return to the workplace without any need for specific business requirements, albeit again on a phased and cautious basis appropriate to each sector.

It is proposed that the LEEF will meet in advance of this date and issue further guidance depending on the prevailing circumstances and health and safety guidance at that time.

Changes of Note

The Protocol has introduced some minor technical changes which employers need to be aware of. The symptoms of COVID-19 have been updated to include the following symptoms:

- runny/blocked nose,
- nausea, vomiting, diarrhoea,
- aches, pains, tiredness,
- sore throat,
- headache

The Protocol adds further guidance on self-isolating, close contacts and contact tracing with greater emphasis placed on the importance of staying home if presenting with symptoms. The Protocol also places additional emphasis on the importance of ensuring proper ventilation in the workplace, including the installation of CO2 monitors (used to monitor the efficacy of ventilation measures) where appropriate.

Further to the above, the following information is now to be provided to workers by employers:

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- the results of the risk assessments that have been carried out on every workspace/communal area should be provided in a clear and understandable format;
 - that CO2 monitors are in place in areas where risk assessments advised that they should be placed;
 - where physical distancing of two metres is not possible, that other mitigation measure have been implemented instead and what the measures are;
 - details on the Governments COVID-19 Vaccination programme.

Conclusion

Where employers have decided to welcome employees back to the workplace, it is important to be aware of the current guidance as outlined in the Protocol. The Protocol is a complex document that is continuously being updated in light of the evolving health and safety advice in relation to COVID-19 and will most likely be amended again in advance of the 22 October 2021, in line with the guidance provided on foot of the LEEF meeting. In the circumstances, employers should take appropriate advice in relation to the Work Safely Protocol to ensure that they are fully compliant in advance of their employees return.

If you need assistance in implementing a Return to Work Policy, please contact one of the team in CC Solicitors. CC Solicitors is a market leading specialist employment and partnership firm in Ireland. Colleen Cleary has been recommended as a global leader in labour and employment law in Who's Who Legal 2020 as an "excellent, focused and fair lawyer with an immaculate understanding of complex employment disputes" together with her fantastic team at CC Solicitors.

For more information see www.ccsolicitors.ie

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